IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1786 OF 2002

Jacob Hyam and another)..Petitioners

Versus

Life Insurance Corporation of India)
and others)..Respondents

None present for the Petitioners.

Ms.Snehal Paranjape i/b.M/s.Little & Co. for Respondent No.1.

Mr.P.M.Pradhan for Respondent No.3.

CORAM: V.G. PALSHIKAR AND SMT.NISHITA MHATRE, JJ.

DATED: 23RD FEBRUARY 2005

P.C. :

. By this Petition, the Petitioners have made the following prayers :-

(a) that this Hon'ble Court be pleased to declare that the said Public Premises (Eviction Occupant) Act, 1971 and in particular section 4 and 10 is ultra vires, void, illegal, bad in law, and of no effect whatsoever and unconstitutional and in any event do not apply to premises in question.

(b) In the alternative to prayer clause (a) this Hon'ble Court be pleased to declare that section 2(e)(1) of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 is ultra vires, void, illegal, bad in law and of no effect whatsoever and unconstitutional;

(c) that this Hon'ble Court in its jurisdiction and power under Article 226 and 227 of the Constitution of India, be pleased to call for record and proceedings from the Court below and

after perusal thereof quash and set aside the order dated 21st October, 1997 passed by the Estate Officer, Respondent No.2 and Order dated 21st February, 2002 passed by the learned Principal Judge, City Civil Court at Bombay in Appeal No.105/1997;

(d) that pending the hearing and final disposal of the above Writ Petition this Hon'ble Court may be pleased to stay the execution, operation and/or implementation of the Order dated 21st October, 1997 passed by the Estate Officer, Respondent No.2 and the Order dated 21st February, 2002 passed by the learned Principal Judge, City Civil Court at Bombay in Appeal No.105/1997;

(e) for ad-interim relief in terms of prayer clause (d) above.

(f) for costs.

(g) for such further and other reliefs as the nature and circumstances of the case may require.

2. In so far as prayers (a) and (b) are concerned, they are squarely covered by the judgment of the Apex Court delivered in *Kaiser-I-Hind Pvt. Ltd. and another* vs. *National Textile Corpn. (Maharashtra North) Ltd. and others*, **(2002) 8 SCC 182**.

3. In so far as prayer (c) is concerned, the learned Counsel appearing on behalf of Respondent No.1 states that the impugned order has been executed so far as the possession is concerned and, therefore, nothing survives in this Petition. Petition is accordingly dismissed.